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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH ROBINSON,

Plaintiff,

No. CIV 2:10-cv-2464-MCE-JFM (PS)

vs.

JEFF CUNAN,<sup>1</sup>

Defendant.

ORDER

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Plaintiff, proceeding pro se, paid the filing fee on November 12, 2010 despite three pending motions to proceed in forma pauperis. Those motions are denied as moot.

Upon review of plaintiff's complaint and examination of the court's files, the undersigned is aware of two actions previously filed by plaintiff in this court that were dismissed. See Robinson v. State of California, No. 2:04-cv-1888-GEB-DAD; Robinson v. Cunan, 09-cv-3045-GEB-KJN. The allegations and defendant in the instant complaint are

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<sup>1</sup> Plaintiff brings this action against "Jeff Cunan and others," though he fails to identify the "others." Plaintiff appears to bring a claim for conspiracy against Cunan and, under a section entitled "Participation was Knowing, Willing, and Unanimous," plaintiff maintains that Cunan conspired with Judge Garrett Olney, Judge William Pangman, prosecutor Gary McGowan, Judge Ira Kaufman and public defender Doug Prouty to deprive plaintiff of, inter alia, his right to assistance of counsel. Nonetheless, plaintiff was issued a summons on November 12, 2010 only as to Jeff Cunan. Therefore, this action will proceed solely as to defendant Cunan.

1 substantially identical to plaintiff's complaint in case No. 09-cv-3045, which was dismissed with  
2 prejudice on May 10, 2010.

3 " [I]f a court is on notice that it has previously decided the issue presented, the  
4 court may dismiss the action sua sponte, even though the defense has not been raised," Arizona  
5 v. California, 530 U.S. 392, 416 (2000), provided that the parties have an opportunity to be heard  
6 prior to dismissal, Headwaters, Inc. v. U.S. Forest Service, 399 F.3d 1047, 1055 (9th Cir. 2005).  
7 "As a general matter, a court may, sua sponte, dismiss a case on preclusion grounds 'where the  
8 records of that court show that a previous action covering the same subject matter and parties  
9 had been dismissed.'" Id. at 1054-55 (quoting Evarts v. W. Metal Finishing Co., 253 F.2d 637,  
10 639 n.1 (9th Cir. 1058)).

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's requests to proceed in forma pauperis are denied as moot; and  
13 2. Within sixty days from the date of this order, plaintiff shall show cause, in  
14 writing, why this action should not be dismissed.

15 DATED: November 15, 2010.

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18 UNITED STATES MAGISTRATE JUDGE

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